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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,818	03/06/2002	James A. Frazier JR.	50847.00114	9406

7590 11/18/2004

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Phoenix, AZ 85004-4424

EXAMINER

ISSING, GREGORY C

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,818

Applicant(s)

FRAZIER ET AL.

9

Examiner

Gregory C. Issing

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-48 and 50-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-48 and 50-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20040902</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 38, 42, 43, 44, 47 and 51 are rejected under 35 U.S.C. 102(e) as being anticipated by Young et al.

The rejection is set forth in the previous Office Action.

The applicants argue that Constant does not disclose "passively receiving broadcast data" from other aircraft. This is not convincing since Constant does not send out any signal to a specific other aircraft in order to receive the other aircraft position information. Constant clearly teaches each aircraft broadcasting their own position data; thus, each other aircraft receives the broadcasted position information without initiating any contact therebetween.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 39-41, 45, 46, 48, 50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al in view of Constant and either one of Boisvert or Drouilhet, Jr. et al.

The rejection is set forth in the previous Office Action.

Applicants allege that the claims are allowable due to their dependency on claim 38. Thus, applicants suggest that the claims stand or fall together with the independent claim since no specific showing is set forth to distinguish the claims.

5. Claims 38-48 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraughton et al in view of Constant and either one of Boisvert or Drouilhet, Jr et al.

The rejection is set forth in the previous Office Action.

Applicants allege that the claims are patentable since the transmitted commands by Constant do not meet the scope of the "steering commands" of the claimed subject matter. This is not convincing since the command information cited with respect to Constant also meets the scope of the steering command; a commanded position (a relative angle and distance from leader), a

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commanded heading, a commanded speed and a commanded altitude are provided from the leader to the following aircraft. Each of these commands meets the scope of a means for generating a steering command to maintain separation between the lead aircraft and the second aircraft in accordance with relative aircraft position of the lead and second aircraft.

6. Claims 38-48 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coles et al in view of Constant and either one of Boisvert or Drouilhet, Jr et al.

The rejection is set forth in the previous Office Action.

Applicants allege that the claims are patentable since the transmitted commands by Constant do not meet the scope of the "steering commands" of the claimed subject matter. This is not convincing since the command information cited with respect to Constant also meets the scope of the steering command; a commanded position (a relative angle and distance from leader), a commanded heading, a commanded speed and a commanded altitude are provided from the leader to the following aircraft. Each of these commands meets the scope of a means for generating a steering command to maintain separation between the lead aircraft and the second aircraft in accordance with relative aircraft position of the lead and second aircraft.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

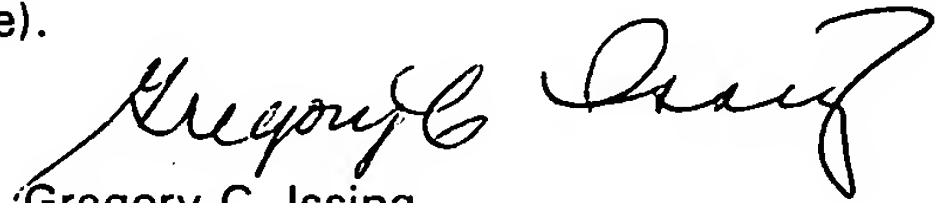
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory C. Issing whose telephone number is 703-306-4156. The examiner can normally be reached on Monday - Thursday 6:00 AM- 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 703-306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory C. Issing
Primary Examiner
Art Unit 3662

gci